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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
VENT, JAMIE J	

ART UNIT	PAPER NUMBER
2621	

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/665,921	BARTON ET AL.	
	Examiner	Art Unit	
	Jamie Vent	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 May 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14;28-41;55-68* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14;28-41;55-68* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 12, 2006 has been entered.

Response to Arguments

Applicant's arguments filed May 12, 2006 have been fully considered but they are not persuasive. On pages 14-16 applicant argues that Zigmond et al in view of Browne et al fails to disclose, suggest, or teach the following limitation: "detecting frame-specific tags inserted into said broadcast stream" as recited in Claims 1, 28, and 55. Zigmond et al discloses a system wherein the broadcast stream is tagged providing information regarding start and ending times as recited in Column 10 Lines 1-34. The detection of this tag information meets the limitation as recited in the claims 1, 28, and 55. Furthermore, it is noted on page 3 of the applicant's specification the frame specific tag is described as an indication of the start and end of a program segment.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the

references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Zigmond et al discloses a system wherein broadcast streams provide the system information for various process such as storing (column 4 Lines 9-31); however, fails to specifically disclose how the system displays stored content from the set top box. Browne et al discloses a system that displays stored and live content to the user as seen in Figure 1, which provides an efficient display for the user to view stored items. Therefore, it would be obvious to use the tagging system, of Zigmond et al, and further incorporate the displaying of stored contents, as disclosed by Browne et al, to provide a more efficient and complete set-top box system.

On page 15 applicant argues that Zigmond et al in view of Browne et al fails to disclose, teach, or suggest the following limitation: "wherein tags indicate start and end points of program segment" as recited in Claims 2, 29, and 56. It is noted Zigmond et al discloses in Column 9 Lines 63+ through Column 10 Lines 1-34 that start and end points of program segments are part of the tag that is inserted into the data stream. Although, all of applicants points are understood the examiner can not agree and therefore the rejection is maintained.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-10, 12-14, 28-37, 39-41, 55-64, and 66-68 are rejected under 35 U.S.C. 103(a) as being unpatentable by Zigmond et al (US 6,400,407) in view of Browne et al (WO 92/22983).

[claims 1, 28, & 55]

In regard to Claims 1, 28, and 55 Zigmond et al discloses a process and apparatus for frame specific tagging of television audio and video broadcast streams with tag translation at a receiver, comprising the steps of:

- tuning said receiver to a broadcast stream (Column 2 Lines 40-51 describes the tuning of the receiver to receive the broadcast stream);
- receiving said broadcast stream at said receiver (Column 4 Lines 20-30);
- detecting and processing frame-specific tags in said broadcast stream (Column 6 Lines 1-25 discloses the detecting and processing of tags into the broadcast stream);
- wherein said processing step performs the appropriate actions in response to said tags (Column 6 Lines 42-62 describes the processing step that performs appropriate actions); and
- wherein said tags include command and control information (Column 6 Lines 42-62 describes that tags include command and control information as further described in Column 9 Lines 63+ through Column 10 Lines 1-34); however, fails to disclose

- storing said broadcast stream on said storage device;
- displaying program material in said broadcast stream from said storage device to a viewer.

Browne et al discloses a system wherein data is stored on a storage device as seen in Figure 1 and discussed on Pages 5-6. Additionally program material both live and stored contents are displayed to the user as seen in Figure 1 and discussed on Page 13. The system by storing programs for displaying and reproducing allows the system to be easily controlled by the user of recorded and live programs. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to use the tagging system as disclosed by Zigmond et al and further incorporate a system wherein programs are stored on a storage medium, as disclosed by Browne et al.

[claims 2, 29, & 56]

In regard to Claims 2, 29, and 56 Zigmond et al discloses a process and apparatus wherein tags indicate the start and end points of a program segment (Column 6 Lines 59-61 describes the start and end times that are included in the tags).

[claims 3, 30, & 57]

In regard to Claims 3, 30, 57, Zigmond et al discloses process and apparatus wherein said displaying step skips over said program segment in response to the viewer pressing a button on a remote input device (Column 5 Lines 19-27 describes the displaying step that skips over the program segment in response from the user via the remote).

[claims 4, 31, & 58]

In regard to Claims 4, 31, and 58, Zigmond et al discloses a process and apparatus having a displaying step automatically skips said program segment (Column 9 Lines 35-63 describes the step of automatically skipping the program segment).

[claims 5, 32, & 59]

In regard to Claims 5, 32, and 59 Zigmond et al discloses a process and apparatus processing step displays a menu to the viewer based on information included in a tag (Column 5 Lines 25-27 describes the menu that is displayed to the user regarding tagged information).

[claims 6, 33, & 60]

In regard to Claims 6, 33, and 60, Zigmond et al discloses a process and apparatus wherein the processing step records the current program in the broadcast stream on said storage device based on information included in a tag (Column 9 Lines 35-63 describes the processing step that records the current program in the broadcast stream on the storage device based on the information included in the tag).

[claims 7, 34, & 61]

In regard to Claims 7, 34, and 61 Zigmond et al discloses a process and apparatus wherein the processing step further comprising the steps of:

- displaying, allowing the viewer to scroll, and performing an action associated with the multiple icons (Column 9 Lines 9-33 describes the multiple icons that are accessible to the viewer);
- accepting viewer input information and selecting a particular icon based on the viewer's input (Column 5 Lines 19-27 describes the viewer

accepting the input information and selecting a an icon based on the viewers input).

[claims 8, 35, & 62]

In regard to Claims 8, Zigmond et al discloses the process and apparatus comprising the steps of:

- wherein said processing step displays an icon to the viewer based on information included in a tag (Column 9 Lines 9-33 describes the process of displaying an icon to the viewer based on information included in the tag);
- accepting viewer input information and interacting with the viewer based on the tag information (Column 5 Lines 19-41 describes the accepting of the input information and interacting with the tag information);
- wherein said displaying step saves the exit point in the program material (Column 9 Lines 9-61 describes the display steps that saves the exit point of the program material); and
- wherein the viewer is returned to said exit point upon completion of any interaction (Column 9 Lines 9-61 additional describes the return to the program material).

[claims 9, 10, 36, 37, 63, & 64]

In regard to Claims 9, 10, 36, 37, 63, and 64 Zigmond et al discloses the process and apparatus further comprising the steps of:

- presenting a plurality of menus to the viewer for generating a lead (Figure 9 Lines 9-32 describes the presenting of plurality of menus to viewers for generating a lead on advertisements); and
- forwarding the viewer's contact information to a third party upon viewer approval (Figure 1 shows the bi-directional communication that happens from the server unit to the user which forwards appropriate information and furthermore is described in Column 4 Lines 49-65).

[claims 12, 39, & 66]

In regard to Claims 12, 39, and 66 Zigmond et al discloses a process and apparatus further comprising the steps of:

- presenting the content of a Web site's Web Page to the viewer in response to the viewer's input wherein the viewer is allowed to interact with the web site (Column 7 Lines 40+ describes the presenting of web site information to the viewer).

[claims 13, 40, & 67]

In regard to Claims 13, 40 and 67 Zigmond et al discloses a process and apparatus wherein said tags allow

a system administrator to remotely configure said receiver (Figure 1 shows the bi-directional communication allowing a system administrator to remotely configure and receive content through the receiver.)

[claims 14, 41, & 68]

In regard to Claims 14, 41, and 68 Zigmond et al discloses the process and apparatus further comprising the steps of:

- marking indexes in said program material based on tag information and jumping to an index selected by the viewer (Column 8 Lines 37-64 describes the marking of indexes of the program material based on tag information and jumping to an index selection by the viewer).

Claims 11, 38, and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond et al (US 6,400,407) in view of Browne et al (WO 92/22983) in further view of Dunn et al (US 5,648,824).

[claims 11, 38, & 65]

In regard to Claims 11, 38 and 65, Zigmond et al in view of Browne et al discloses the process and apparatus for frame specific tagging of television audio and video broadcast streams with tag translation; however, fails to discloses the presenting a set of program recording options to the viewer; and scheduling the viewer's recording preferences.

Dunn et al discloses a system that has user interface allowing video controlling through options such as playback, record, fast forward, etc. It is seen in Figure 3 the user views information regarding the program and thereby schedules the recording preferences as further described in Column 5 Lines 27-65. Thereby allowing the user to choose various programming options when setting a recording schedule which allows for more accurate recording schedules. Therefore, it would have been obvious to one

of ordinary skill in the art at the time of the invention to use a system of tagging broadcast streams, as disclosed by Zigmond et al in view of Browne et al, and further incorporate a system which provides user the information regarding recording of the programs, as disclosed by Dunn et al.

Conclusion

- Browne et al (US 2005/0262539)

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamie Vent whose telephone number is 571-272-7384. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jamie Vent

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PRIMARY EXAMINER